

**ZONING BOARD OF APPEALS
MINUTES OF MEETING
JULY 12, 2012**

Town of Bedford
Bedford Town Hall
Lower Level Conference Room

PRESENT: Angelo Colasante, Chair; Kenneth Gordon, Vice Chair; Brian Gildea, Clerk; Jeffrey Cohen; Jeffrey Dearing; Stephen Henning; Todd Crowley

ABSENT: Carol Amick

Mr. Colasante introduced himself and read the emergency evacuation notice. The Zoning Board of Appeals (ZBA) members and ZBA assistant introduced themselves.

PRESENTATION: Mr. Gildea read the notice of the hearing.

PETITION #001-12 – T-Mobile Northeast LLC, for 216 Concord Road, seeks a Special Permit per Section 4.4.5 of the Zoning By-Law to modify wireless communication facility, per plans filed.

Michael Johnson, the representative for T-Mobile, introduced himself and explained that T-Mobile was seeking a Special Permit to make modifications to the existing 130 foot monopole at 216 Concord Road. He said that there has recently been a push for 4G service, so T-Mobile and many other carriers have been swapping out antennas and cabinets for the necessary upgrades. He noted that the goal was always to work within existing locations instead of building new facilities, and that goal coincided with the Zoning By-Law's desire for collocation of wireless devices.

Mr. Colasante pointed out that there were some application items required under the By-Law that were not included in this application, such as eight view lines shown along a one-mile radius of the site, and a report from a Radio Frequency (RF) Engineer showing the amount of output from the existing equipment and the amount of output from the proposed equipment. Mr. Johnson said that in his discussions with Christopher Laskey, the Code Enforcement Director, it was understood that the site lines would not be required since there was no change to the tower itself and none of the antenna swap-outs would be visible from the road. Mr. Colasante said he would talk to Mr. Laskey about the waiving of that requirement, since there are occasions when the public attends these meetings and it gave them peace of mind to see the site lines. Mr. Johnson said that he would make a note of that for any future applications. He added that the RP study would be included with the Building Permit application, so he didn't think it was necessary to include it with the ZBA application. Mr. Gordon said the Board would be remiss if it didn't require such a study, since it is specifically called for under the Zoning By-Law.

There was extensive discussion about the details of the dimensions of the antennas, cabinets, and equipment.

Mr. Colasante asked whether this upgrade would cause problems or conflicts with the other carriers. Mr. Johnson said there would be no such problems because all carriers at every site work under specified licensed frequencies allowed by the Federal Communication Commission (FCC).

The Board talked about whether to continue the hearing until such a RF study is submitted, or add a condition to the Special Permit requiring the study to be included with the Building Permit application. Mr. Gildea said that the reports measuring radiation levels have always shown that the levels are only at one or two percent of the output allowed by the FCC, and he was confident that this one would prove the same, but he would still feel better knowing that such a report was included – at least with the Building Permit application.

Mr. Colasante opened the hearing to the public. With no comments or questions from those in attendance, Mr. Colasante closed the public hearing.

DELIBERATIONS:

Mr. Colasante said he didn't want to hold up the applicant for a document that the Building Inspector would end up requiring anyway, so he was comfortable with conditioning the Special Permit on the Building Department receiving the RF Engineer's report with the Building Permit application.

Mr. Gordon said the issue that troubled him was delegating the review process to another party when the By-Law presupposed that the ZBA do it. Mr. Colasante agreed but noted that he didn't want to hold up the applicant for a document that will be reviewed by the Building Inspector prior to the issuance of a Building Permit. Mr. Dearing said he was comfortable conditioning the motion to require the RF study with the Building Permit application; he added that Mr. Gildea's comment that the levels always come in well under the FCC's requirements was an accurate one.

Mr. Colasante said that the proposed installation itself was very simple and straightforward. He said it was an extremely minor change to the facility and he believed it met the criteria of a Special Permit, in that it was not injurious or detrimental to the neighborhood and was in keeping with the intent and purpose of the By-Law.

MOTION:

Mr. Gildea moved to grant T-Mobile Northeast LLC, for 216 Concord Road, a Special Permit per Section 4.4.5 of the Zoning By-Law to modify wireless communication facility, per plans filed, and subject to the condition that the applicant provides a certification as required by Section 4.4.5.5 of the Zoning By-Law prior to issuance of Building Permit by the Building Inspector.

Mr. Dearing seconded the motion.

Voting in favor: Colasante, Gildea, Dearing, and Henning

Voting against: Gordon

Abstained: None

The motion carried, 4-1-0.

Mr. Colasante explained that the Board has 14 days to write a decision, after which time there is a 20-day appeal period. The applicant is then responsible for getting the decision recorded at the Registry of Deeds. Once the decision is recorded, the applicant may apply for a Building Permit at the Code Enforcement Department.

PRESENTATION: Mr. Gildea read the notice of the hearing.

PETITION #004-12 – T-Mobile Northeast LLC, for 75 Great Road, seeks a Special Permit per Section 4.4.5 of the Zoning By-Law to modify wireless communication facility, per plans filed.

Michael Johnson, the representative for T-Mobile, re-introduced himself and explained T-Mobile was here for a modification to the wireless antenna facility at the First Parish Church at 75 Great Road. He stated that the antenna facility is located inside the steeple of the church, and the work consisted of swapping out three existing wireless antennas with three upgraded antennas. He noted that all the work will take place inside the steeple, so there would be no visible changes to the exterior.

Mr. Colasante said his primary concern was with the steeple itself, since the ZBA recently had another applicant making changes to the antenna inside the steeple and he was starting to wonder how many changes such a structure can handle. Mr. Johnson said that a Structural Engineer always performed an inspection of the site prior to each installation to make sure that the area can handle the weight. He added that this swap-out will actually end up being less weight to the antenna, and a report with supporting calculations will be submitted stating as much. Mr. Colasante asked whether the Structural Engineer's report only took into account this one carrier's equipment. Mr. Johnson replied that it takes into account all the equipment from all the carriers. Mr. Dearing noted that he is familiar with the inside of the First Parish Church building, and he can attest to the fact that a large steel structure was added inside the steeple to support the weight of this equipment, and the antennas were not simply being layered onto an old wooden structure.

The Board talked in detail with the applicant about the specifications of the equipment and installation.

Mr. Colasante opened the hearing to the public. With no comments or questions from those in attendance, Mr. Colasante closed the public hearing.

DELIBERATIONS:

Mr. Gildea stated that he felt the RF report was even more important at this project than at the 216 Concord Road tower, because the Concord Road tower was located deep in the woods, while this facility was located directly inside a church where people congregate regularly. He said he would be willing to grant the Special Permit with the condition of the report being submitted to the Building Department, but it was absolutely imperative in his mind that such a report be documented and reviewed. Mr. Colasante agreed, and added that the two conditions of the Special Permit should be that both a RF study and a structural engineer's analysis should be submitted to the Building Department. Mr. Gildea asked the applicant whether he was amenable to those conditions. Mr. Johnson said that he was.

Mr. Gordon again expressed his concern that the RF report was omitted from the submission and the review process was being delegated to another party. (you may want to check with Ken on how to phrase this).

Mr. Cohen said the project was not injurious or detrimental to the neighborhood and was in keeping with the intent and purpose of the By-Law, so in his opinion it therefore met the requirements of a Special Permit.

MOTION:

Mr. Gildea moved to grant T-Mobile Northeast LLC, for 75 Great Road, a Special Permit per Section 4.4.5 of the Zoning By-Law to modify wireless communication facility, per Exhibits A-F, and subject to the condition that the applicant provide a certification as required by Section 4.4.5.5 of the Zoning By-Law, and subject to the condition that a proper structural analysis is performed and submitted to the Building Inspector prior to issuance of the Building Permit.

Mr. Cohen seconded the motion.

Voting in favor: Colasante, Gildea, Cohen, and Dearing

Voting against: Gordon

Abstained: None

The motion carried, 4-1-0.

Mr. Colasante explained that the Board has 14 days to write a decision, after which time there is a 20-day appeal period. The applicant is then responsible for getting the decision recorded at the Registry of Deeds. Once the decision is recorded, the applicant may apply for a Building Permit at the Code Enforcement Department.

PRESENTATION: Mr. Gildea read the notice of the hearing.

PETITION #002-13 – Latady Design, for 8 Anthony Road, seeks a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning By-Law to construct second floor addition on pre-existing non-conforming structure.

Kevin Latady, the architect for the project, greeted the Board and introduced Francesca Locati, the homeowner. He stated that they were proposing a second floor addition which will stay within the existing footprint, and a covered entryway that will encroach seven feet farther into the front yard setback than the house currently does, bringing the new setback to 24.4 feet. He noted that the only part of this project that would encroach farther into the existing setbacks was that covered porch.

Mr. Gildea asked what the height of the new addition would be. Mr. Latady replied that the addition would be well under the Town's height limit of 37 feet, and would probably be approximately 30 or 31 feet high.

Mr. Colasante asked whether the applicants were proposing to increase the size of the front steps. Mr. Latady said that they would not be changing the steps at all; they would only be adding a roof over the existing steps.

Mr. Colasante opened the hearing to the public.

Dianne Grattan, of 10 Anthony Road, said that she had many concerns about this project. She said that she was a writer and worked from home so she was concerned about the noise and activity during construction. She asked how long the addition will take to build, if it is approved. Mr. Latady said they hoped to start in August and construction would last approximately three months.

Ms. Grattan asked what time construction was allowed to begin on weekdays. Mr. Cohen said he believed that under the current by-law the applicant could start work at 7:00 AM on weekdays and 7:00 or 8:00 AM on Saturdays, with no work allowed on Sundays.

Ms. Grattan explained that she was up writing many nights, sometimes not getting to sleep until 3:00 or 4:00 AM, and with construction starting at 7:00 each morning, that will cause a great deal of disruption to her life. She said that she also had a screened in porch, and her summer may be potentially ruined by the noise, debris, workmen, and loud equipment next door to her. She said that two additions have been built on her street within the last 18 months and she feared having this one next door. She noted that she had already purchased two white noise machines to help block out the noise and help her sleep, but even those wouldn't be enough during this construction. She said that there may be nothing the Board members could do from a legal standpoint to stop this project, but she hoped that they could at least help minimize the impact it will have on her life.

Ms. Grattan said that Mr. Latady was involved with another project on Anthony Road, and she deeply appreciated his kindness and respect during that process. She said that she was relieved that he would be involved again now, but still worried about the

inconvenience to her lifestyle for the next several months.

Ms. Grattan talked extensively with the Board members about the General and Zoning By-Laws. She asked how the Board determines a Special Permit should be granted. Mr. Cohen explained that the two requirements of a Special Permit are that the project was in keeping with the intent and purpose of the By-Law and was not injurious or detrimental to the neighborhood. Ms. Grattan stated that all the noise, debris, smells, and general disruption during construction should be considered detrimental. Mr. Cohen said that the Board didn't typically consider the actual construction process but the eventual outcome of the project once it was completed.

Ms. Locati said that her other two neighbors, one next door and one across the street, had expressed very positive opinions about the addition, and even thought it would raise their own property values.

There was discussion about the setbacks from Ms. Grattan's house and from the Locatis' house. Ms. Grattan commented that she might challenge the applicant's certified site survey because she did not agree with the side yard setbacks noted at her property line. The Board commented that Ms. Locati's house complies with the side yard setbacks at Ms. Grattan's property and that Ms. Grattan's house may be the one that does not comply with the Bylaws regarding side yard setbacks.

Mr. Gordon said that any concerns about noise and the time of work should be directed to the Code Enforcement Office, adding that this Board's primary concern was not with construction activity but with dimensions and zoning. He said that part of being a good neighbor involved being reasonable and understanding through a construction process like this, realizing that, if the addition was as tasteful and attractive as this one, it would not only improve the lives of the applicants but also make one's neighborhood nicer.

Brian Kennedy, of 8 Anthony Road, said he also lived in the house for which this addition was being proposed, and he had no doubt that he and the Locatis would be willing to work with Ms. Grattan to determine a reasonable construction schedule that would work best for all the involved parties.

With no further comments from those in attendance, Mr. Colasante closed the public hearing.

DELIBERATIONS:

Mr. Crowley pointed out that this project seemed like a very minor change. Mr. Cohen noted that, as was stated before, the conditions of a Special Permit were that the project was not injurious or detrimental to the neighborhood and was in keeping with the intent and purpose of the By-Law. He said he believed this project met those requirements.

Mr. Colasante noted that he agreed with other Board members that the ZBA's determination of whether a Special Permit was injurious or detrimental to the

neighborhood began when construction ended. He said that when the construction of this project was complete, it would look very attractive.

Mr. Gildea said that the applicants were staying within the existing footprint for the addition and the front porch was, in his opinion, a de minimis change. He said that he believed this would add to the neighborhood, not detract from it, and he fully supported the Special Permit request.

MOTION:

Mr. Gildea moved to approve Latady Design, for 8 Anthony Road, a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning By-Law to construct second floor addition on pre-existing non-conforming structure, per plans filed and substantially as shown on Exhibits A through C.

Mr. Gordon seconded the motion.

Voting in favor: Colasante, Gordon, Gildea, Cohen, and Dearing

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

Mr. Colasante explained that the Board has 14 days to write a decision, after which time there is a 20-day appeal period. The applicant is then responsible for getting the decision recorded at the Registry of Deeds. Once the decision is recorded, the applicant may apply for a Building Permit at the Code Enforcement Department.

PRESENTATION: Mr. Gildea read the notice of the hearing.

PETITION #003-12 – Anna Wallace, for 5 Springs Road, seeks a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning By-Law to build addition and detached garage within side yard setbacks.

Kevin Latady, the architect for 5 Springs Road, greeted the Board and introduced Anna Wallace, the property owner. Mr. Latady explained that the proposed project scope was to keep the original home intact and take down the back half of the house, which consisted of a kitchen ell built in the late 1800s that is in great disrepair and a porch addition from the 1960s. He said the plan was to lift up the old house off the foundation and rest it in the back yard while a new foundation is constructed. The house will then be put back onto that new foundation along with construction of a new back ell. Mr. Latady stated that the existing one-car garage will be demolished and a new two car garage will be added. He added that the new garage will have a four-foot setback from the property line; he noted that he would be uncomfortable proposing a four-foot setback between residences but he feels that isn't an inappropriate number given that it is adjacent to the Sovereign Bank.

There was conversation about the dimensions of the house and garage, and the setbacks to the house, the adjacent cemetery, and the adjacent bank parking lot. Mr. Latady noted that the Historic Preservation Commission had gotten word from Richard Warrington, the Department of Public Works (DPW) Director, that the DPW will be repairing and restoring the stone wall by the cemetery, so that will add to the visual appeal of the property.

Mr. Crowley asked what the square footage of the existing house and proposed house were. Mr. Latady replied that the existing house was approximately 21,00 square feet, and the proposed house would be approximately 25,00 square feet.

Mr. Latady talked with the Board about the architectural details and features of the house.

Mr. Colasante asked what 5 Springs Road was zoned for. Mr. Latady replied that it was zoned in the Limited Business District, but as it is a residence, it falls back to residential Building Code and setbacks.

There was discussion about the foundation. Mr. Latady pointed out that the new foundation would have a granite face to be more aesthetically pleasing.

Mr. Colasante opened the hearing to the public. With no one from the public in attendance, Mr. Colasante closed the public hearing.

DELIBERATIONS:

Mr. Colasante said that this project required a Special Permit, for which the two requirements are that the project was not injurious or detrimental to the neighborhood and was in keeping with the intent and purpose of the By-Law. He said he felt this project met those requirements and that the finished product would be very attractive. He noted that he was not particularly concerned with the four-foot setback because it is next to the bank parking lot and will not be infringing on another resident's privacy. Mr. Gordon said that this looked like a beautiful renovation. The other Board members agreed.

MOTION:

Mr. Gildea moved to grant Anna Wallace, for 5 Springs Road, a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning By-Law to build addition and detached garage within side yard setbacks, as per plan and as shown on Exhibits A through E.

Mr. Cohen seconded the motion.

Voting in favor: Colasante, Gordon, Gildea, Cohen, and Dearing

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

Mr. Colasante explained that the Board has 14 days to write a decision, after which time there is a 20-day appeal period. The applicant is then responsible for getting the decision recorded at the Registry of Deeds. Once the decision is recorded, the applicant may apply for a Building Permit at the Code Enforcement Department.

BUSINESS MEETING:

Mr. Colasante called for a motion to approve the minutes of the June 28 meeting.

MOTION:

Mr. Cohen moved to approve the minutes of the June 28, 2012 Zoning Board of Appeals meeting.

Mr. Henning seconded the motion.

Voting in favor: Colasante, Gordon, Gildea, Cohen, Dearing, Henning, and Crowley

Voting against: None

Abstained: None

The motion carried unanimously, 7-0-0.

MOTION:

Mr. Henning moved to adjourn the meeting.

Mr. Cohen seconded the motion.

Voting in favor: Colasante, Gordon, Gildea, Cohen, Dearing, Henning, and Crowley

Voting against: None

Abstained: None

The motion carried unanimously, 7-0-0.

The meeting adjourned at 9:55 PM.


Angelo Colasante, Chair

8-9-12
Date

Respectfully Submitted,

Scott Gould
ZBA Assistant